IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 16861 of 1994

Between:

P.Dayasagar S/o.P.Keshanna
R/o.Yelkur Village,Maldakal Mandal Mahabubnagar Dist.

..... PETITIONER

AND

1 The Dist Collector
Mahabubnagar Dist, Mahaboobnagar.
2 The Dist Development Officer
Mahabubnagar.
3 The Mandal Development Officer
Vaddepally Mandal, Mahabubnagar dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, writ or order, one in the nature of Certiorari: a) calling for records pertaining to the impugned proceedings dt.16-1-91 bearing No.D2/6262/90 issued by the Respondent No.1 by which the petitioners Caste Certificate as S.C. issued by the Mandal Revenue Officer through proceedings dt:5-6-87 bearing No.B/584/87 was cancelled and the same may be set aside; b)granting all consequential benefits like seniority, arrears of pay in the post of SGBT/Special Teacher c) awarding costs; or any other order or orders appropriate in the case may be passed.

Counsel for the Petitioner: MR.M.RAMA RAO

Counsel for the Respondent No.: GP FOR SOCIAL WELFARE

The Court made the following :

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 16861 OF 1994.

ORDER:

This Writ Petition is filed, questioning the proceedings No.D2/6262/90, dated 16-1-1991 issued by the first respondent, whereby, the caste certificate issued to the petitioner by the Mandal Revenue Officer, Maldakal Mandal, on 5-6-1987 in proceedings No.B/584/87 is cancelled.

The petitioner claims that he belongs to Madiga community, which is notified as Scheduled Caste and he is the son of One Mr. Kesanna of Yelkur Village, Maldakal Mandal, Mahaboobnagar District. The petitioner was selected as Special Teacher by the District Selection Committee in the selections held in the year 1989 and was appointed to the post of SGBT on 29-6-1990 and posted in one of the schools of Panchayat Samithi, in Vaddepally.

While the petitioner was in service, proceedings were initiated for cancellation of his caste certificate, only on the ground that in the primary school records, his name was recorded as 'Krupanandam' and his caste was recorded as 'Christian'. Though enquiries conducted by the Mandal Revenue officer,

Revenue Divisional Officer and Joint Collector reveal that there is no practice of Christianity in their house, but referring to the primary school records, the impugned proceedings are issued cancelling the caste certificate. It is the case of the petitioner that the entry made in the primary school records is incorrect and his father, Kesanna, belongs to Scheduled Caste and he is a Hindu and there is no conversion into Christianity by the petitioner or his father. It is his further case that though in the successive enquiries it is proved that he belongs to Scheduled Caste, even then the impugned order is passed cancelling the caste certificate.

Counter affidavit is filed on behalf of the respondents 1 and 2. A separate counter is filed on behalf of the third respondent. Even in the counter affidavit filed on behalf of the respondents 1 and 2, it is stated that the enquiries conducted by the MRO, RDO, and Joint Collector revealed that the father of the petitioner, Kesanna, is having a house in Harijanchery at Elkur village and specifically it is mentioned that there are no signs of practicing Christianity in their house.

From a reading of the impugned proceedings itself it is very clear that repeated enquiries were conducted by the MRO, RDO and Joint Collector. Even in the impugned proceedings with reference to the enquiry conducted by the Joint Collector, it is mentioned as follows:

> “The joint Collector, Mahaboobnagar, visited the house of Sri

> Keshanna, father of Dayasagar on 20-3-1990. He is having a house in Harijancherry in Elkur village. At the time of his visit, the Joint Collector did not find any signs of practicing Christian religion in the house. He recorded the statement of Sri Keshanna. Sri Keshanna in his statement stated that neither he nor his children have taken Christianity."

Even in paragraph 6 of the counter affidavit filed by respondents 1 and 2, it is stated as follows:

> "It is submitted that according to the enquiries conducted by the Sub-Collector, Gadwal and Joint Collector, Mahaboobnagar that at his house there are no signs of practicing Christianity. The candidate belongs to converted Christian, as seen from the primary school record. He has not produced any evidence to show that he is reconverted into Hinduism"

From the reasoning assigned in the impugned order, and as well as from the counter affidavit, it is very clear that the petitioner belongs to Madiga caste, which is notified as Scheduled Caste, and, he is the son of Kesanna, who was the resident of Harijanacherry of Elkur Village. It is not in dispute that the petitioner and his father belong to Scheduled Caste and impugned cancellation order is passed basing on the entry made in the primary school records. The cancellation order is presumably passed on the ground that the petitioner was converted into Christianity and there is no re-conversion into Hinduism, and, in that view of the matter the caste certificate issued to him certifying him to be the Scheduled Caste, cannot be continued. The enquiries conducted by the MRO, RDO and Joint Collector reveal that there are no signs of practicing Christianity in the house of the petitioner. When the original caste of the petitioner and his father is undisputedly of Scheduled Caste, unless there is

valid conversion into Christianity, the petitioner cannot be deprived of his caste benefit. The impugned order is passed only on the ground that in the primary school records, the cast of the petitioner was recorded as Christian, in spite of the enquiries reveal, that there is no practice of Christianity in their house. More over, the petitioner produced caste certificate at the time of his selection during the year 1989-90 and when he pleads that the entries made in the primary school records are not correct, no order of cancellation could have been passed contrary to the findings in the enquiry by the authorities.

For the foregoing reasons, the impugned cancellation order cannot stand and the same is accordingly set aside. But, however, with regard to consequential benefits, it is open for the petitioner to approach the competent authority or Tribunal, and, seek appropriate relief.

The Writ Petition is accordingly allowed to the extent indicated above. No order as to costs.

8th December, 2004.

Asp/Msnr.

That Rule Nisi has been made absolute as above

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday the Eighth day of December, Two Thousand and Four.

To

1 The Dist Collector
Mahabubnagar District, Mahaboobnagar.
2 The Disttrict Development Officer
Mahabubnagar.
3 The Mandal Development Officer
Vaddepally Mandal, Mahabubnagar District

4. Two C.Cs. to G.P. for Social Welfare, High Curt of A.P, Hyderabad

5. Two C.D. copies